

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SUN OPTICS INC.,)
Plaintiff,)
v.) C.A. No. 07-137-SLR
FGX INTERNATIONAL INC.,)
Defendant.)

MOTION TO DISMISS

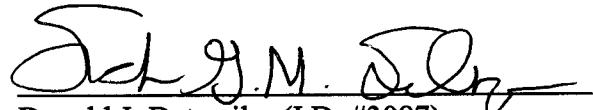
FGX International, Inc. (“FGX”), through its undersigned counsel, and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, hereby moves (the “Motion”) the Court for an order dismissing the Complaint in the above-captioned action.

The grounds for this Motion are set forth more fully in FGX's Memorandum of Law in Support of Defendant's Motion, supporting declarations, affirmation and exhibits thereto, filed contemporaneously herewith. FGX has made the requisite showing for the granting of its Motion. Specifically, FGX has shown that plaintiff, Sun Optics Inc. has failed to state a claim for which relief can be granted and has abused the judicial process through its impermissible judge shopping.

WHEREFORE, FGX respectfully requests that the Court (i) grant its Motion the Complaint with prejudice, and (ii) grant such other and further relief as the Court may deem just and proper

Dated: Wilmington, Delaware
April 4, 2007

GREENBERG TRAURIG, LLP



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IN THE UNITED STATES DISTRICT COURT
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SUN OPTICS INC.,)
Plaintiff,)
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FGX INTERNATIONAL INC.,)
Defendant.)

ORDER

This matter having come before the Court upon consideration of the defendant FGX International, Inc.’s Motion To Dismiss (the “Motion”), notice of the Motion having been served upon the plaintiff, Sun Optics Inc.; and, after due deliberation and sufficient cause appearing therefor, it is HEREBY,

ORDERED that the Motion is GRANTED; and it is further

ORDERED that plaintiff, Sun Optics Inc.'s complaint in the above-captioned action is dismissed with prejudice.

Dated: , 2007

**Honorable Sue L. Robinson
Chief Judge, United States District Court**

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CERTIFICATE OF SERVICE

I, Sandra G. M. Selzer, being duly sworn according to law, deposes and says that I am employed by Greenberg Traurig, LLP, which is counsel for FGX International, Inc. and hereby certify that on the 4th day of April 2007, I caused copies of the following documents to be served upon the parties on the attached service list via Hand Delivery upon local counsel and U.S. Mail upon the remaining parties.

- **MOTION TO DISMISS**
- **MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT'S MOTION TO DISMISS**
- **DECLARATION OF ALEC TAYLOR**
- **DECLARATION OF JACK FLYNN**
- **AFFIRMATION OF DONALD J. DETWEILER**
- **(proposed) ORDER**

Dated: Wilmington, Delaware
April 4, 2007

GREENBERG TRAURIG, LLP


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Sun Optics, Inc. v. FGX International Inc.
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